

Preface

Greetings! We take this opportunity to wish you a very Happy and Prosperous New Year 2016.

The Income Computation and Disclosure Standards (ICDS) notified by the Government is effective from AY 2016-17 and it is going to be a tough time for the corporate entities during the Financial Year 2016-17, to ensure that the regular Accounting Standards of the Institute of Chartered Accountants of India and the ICDS are complied with in its true spirit.

This newsletter covers few of the important case laws pronounced by the Supreme Court and we request your attention. Please revert if you need any further clarification.

Thanks & Regards

CA V Thiagarajan
Partner

INCOME TAX

PAN made compulsory in the following transactions with effect from 1st Jan 2016:

Sl. No	NATURE OF TRANSACTION	MANDATORY QUOTING OF PAN (RULE 114B)
1	Sale or purchase of a motor vehicle	All sales/ purchases
2	Opening an account [other than a time-deposit and a Basic Savings Bank Deposit Account] with a banking company or a cooperative bank	All transactions
3	Application to banking company/ any other company/institution/ cooperative banks for issue of credit or debit card.	All transactions
4	Opening of a demat account	All transactions
5	Hotel/restaurant bill(s)	Cash payment exceeding Rs.50,000/-.
6	Foreign travel or purchase of foreign currency	Cash payment exceeding Rs.50,000/-
7	Purchase of mutual fund units	Payment exceeding Rs.50,000/-
8	Purchase of Debentures/ bonds	Payment exceeding Rs.50,000/-
9	Purchase of RBI bonds	Payment exceeding Rs.50,000/-
10	Deposit with banking company or a cooperative bank	Cash deposit exceeding Rs.50,000/- in a day.
11	Purchase of bank drafts/ pay orders/ banker's cheques	Cash payment exceeding Rs.50,000/- on any one day.

12	Time deposit with a banking company, Post Office, Nidhi, a non banking financial company	Amount exceeding Rs. 50,000/- or aggregating to more than Rs. 5,00,000/- during a financial year.
13	Cash cards/ prepaid instruments issued under Payment & Settlement Act	Payment in cash or by way of a bank draft or pay order or banker's cheque of an amount aggregating to more than Rs 50,000/- in a financial year..
14	Life insurance premium	Payment exceeding Rs.50,000/- in a year.
15	Sale or purchase of securities	Amount exceeding Rs. 1,00,000/- per transaction.
16	Sale or purchase of shares of a company not listed in a recognized stock exchange	Amount exceeding Rs. 1,00,000/- per transaction.
17	Sale or purchase of any immovable property.	i. Sale/ purchase exceeding Rs.10,00,000/- ii. Properties valued by Stamp Valuation authority at amount exceeding Rs.10,00,000/-
18	Purchases or sales of goods or services other than specified above	Amount exceeding Rs 2,00,000/- per transaction

Payment to Non – residents:

- ❖ With effect from 1st April 2016, the person responsible for making payments to a non-resident, not being a company or to a foreign company, shall furnish the relevant forms (15CA / 15CB) as stated below:
 - If the payment is not chargeable to tax, then Part D of Form 15CA is required (details of the remitter)
 - If the payment is chargeable to tax and aggregate amounts made during the financial year exceeds Rs 5 lakhs then Part C of Form 15CA along with Form 15CB from a Chartered Accountant is required
 - If the payment is chargeable to tax and aggregate amounts made during the financial year does not exceed Rs 5 lacs and order u/s 195 (2), 195(3) (non-deduction of TDS) or 197 (lower deduction of TDS) is available then Part B of Form 15CA is required
 - If the payment is chargeable to tax and aggregate amounts made during the financial year does not exceed Rs 5 lacs and order u/s 195 (2), 195(3) (non-deduction of TDS) or 197 (lower deduction of TDS) is not available then Part A of Form 15CA is required

CORPORATE LAW

Relaxation of additional fees and extension of last date for e-filing

- ❖ The additional fees payable on e-filing of MGT 7(annual return) and AOC 4 (Financial statement) has been relaxed for the state of Tamil Nadu and Union Territory of Pondicherry upto 31st January 2016.

FEMA

- ❖ Currently trading is permitted to only in US Dollar (USD) - Indian Rupee (INR), Euro (EUR)-INR, Pound Sterling (GBP)-INR and Japanese Yen (JPY)-INR currency futures contracts and USD-INR currency option contract in recognized stock exchanges. In order to enable direct hedging of exposures in foreign currencies and facilitate execution of cross-currency strategies by market participants, it has been decided, to permit the recognized stock exchanges to offer cross-currency futures contracts and exchange traded option contracts in the currency pairs of EUR-USD, GBP-USD and USD-JPY. Recognised stock exchanges are also permitted to offer exchange traded currency option contracts in EUR-INR, GBP-INR and JPY-INR in addition to the existing USD-INR option contract, with immediate effect.

VAT

Extension of last date for submission of audit report

- ❖ The due date for submission of audit report for the Financial year 2014-15 in Form WW has been extended from 31st December 2015 to 31st January 2016 for the dealers having place of business or additional place of business in the revenue districts of Chennai, Kanchipuram, Thiruvallur, Cuddalore, Thoothukudi and Tirunelveli.

SUPREME COURT RULINGS

Chennai Properties and Investments Ltd. Vs. CIT

- ❖ The main object of the appellant company as per the Memorandum of Association is to acquire properties in Chennai and let out those properties. The rental income earned was reported as business income. However, the assessing officer refused to tax it as business income and taxed under “income from house property”. On appeal to the Supreme Court, the Court noted that as per the MOA, the main object was to acquire specific properties in Chennai and to let out those properties as well as make advances upon the security of lands and buildings or other properties or any interest therein. The entire income of the company was through letting out those specific properties and there was no other income of the assessee except the income from letting out of those properties. The Supreme Court held that where there is a letting

out of premises and collection of rents the assessment on property basis may be correct but not so, where the letting or sub-letting is part of a trading operation. In this case since the company has professed objects, letting of properties was in fact the business of the assessee. The assessee, therefore had rightly disclosed the income under the head “income from business”. It could not be treated as “income from the house property”.

Fire Boards (P) Ltd. Vs. CIT

- ❖ The assessee Company sold land, building and plant & machinery forming part of an industrial undertaking located in an urban area and derived a capital gain. The assessee paid advances towards purchase of land, plant & machinery and construction of factory building in a non urban area during the same year. The assessee claimed exemption u/s 54G which was denied by the Officer for the reason that the assessee had not invested the capital gain in Capital Gains Accounts Scheme. The Supreme Court held that the requirement in section 54G is that the assessee should invest in the purchase of specified assets in a non urban area within 3 years from the date of transfer and which has been complied in this case. The word “Utilize” in the section includes advances paid towards acquisition of plant & machinery and other allied activities. Hence, the denial of the exemption of the Assessing Office is not tenable in Law. The Supreme Court appalled the claim of the assessee.

Japan Airlines Co. Ltd. Vs. CIT

- ❖ The company is engaged in the business of international air traffic and transports passengers and cargo by air. The Airports Authority of India levied certain charges for landing and also for parking its aircrafts. The company paid the charges after deducting TDS u/s 194C @ 2% as intimated by the AAI. However, the Assessing Officer passed an order for short deduction of TDS. The Officer held that the payments in respect of landing and parking charges were of the nature of “rent” and covered under 194-I. The Supreme court held that the charges fixed by the AAI for landing and take-off services as well as for parking of aircrafts were not for the “use of the land” alone, but also included charges for services and facilities offered in connection with the aircraft operation at the airport such as air traffic services, ground safety services, aeronautical communication facilities, installation and maintenance of navigational aids and meteorological services at the airport. The Supreme Court concluded that the charges were not for the use of land per se and therefore it would not be treated as “rent”.

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